

**510.120 Sexual abuse in the second degree.**

- (1) A person is guilty of sexual abuse in the second degree when:
  - (a) He or she subjects another person to sexual contact who is incapable of consent because he or she is an individual with an intellectual disability;
  - (b) He or she is at least eighteen (18) years old but less than twenty-one (21) years old and subjects another person who is less than sixteen (16) years old to sexual contact; or
  - (c) Being a jailer, or an employee, contractor, vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or a detention facility as defined in KRS 520.010, or of an entity under contract with either department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects a person who is at least eighteen (18) years old and who he or she knows is incarcerated, supervised, evaluated, or treated by the Department of Corrections, Department of Juvenile Justice, detention facility, or contracting entity, to sexual contact.
- (2) In any prosecution under subsection (1)(b) of this section, it is a defense that:
  - (a) The other person's lack of consent was due solely to incapacity to consent by reason of being less than sixteen (16) years old; and
  - (b) The other person was at least fourteen (14) years old; and
  - (c) The actor was less than five (5) years older than the other person.
- (3) Sexual abuse in the second degree is a Class A misdemeanor.

**Effective:** July 12, 2012

**History:** Amended 2012 Ky. Acts ch. 146, sec. 129, effective July 12, 2012. -- Amended 2010 Ky. Acts ch. 26, sec. 3, effective July 15, 2010. -- Amended 2008 Ky. Acts ch. 72, sec. 2, effective July 15, 2008. -- Amended 2006 Ky. Acts ch. 182, sec. 34, effective July 12, 2006. -- Amended 2002 Ky. Acts ch. 259, sec. 9, effective July 15, 2002; and ch. 282, sec. 3, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 345, sec. 8, effective July 14, 2000. -- Amended 1988 Ky. Acts ch. 283, sec. 14, effective July 15, 1988. -- Created 1974 Ky. Acts ch. 406, sec. 92, effective January 1, 1975.

**Legislative Research Commission Note** (7/15/2008). The numbering of subsections in this section has been altered by the Reviser of Statutes from the numbering in 2008 Ky. Acts ch. 72, sec. 2, under the authority of KRS 7.136.